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KARLA URIBE

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

KARLA URIBE, Individually and On) Case No.

Behalf of All Others Similarly Situated.)

Plaintiff,

**CLASS ACTION COMPLAINT
FOR DAMAGES AND DEMAND
FOR JURY TRIAL**

VS.

FREEWAY INSURANCE SERVICES,)

INC.

Defendant.

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of FREEWAY INSURANCE

1 SERVICES, INC. (“Defendant”), in negligently, knowingly, and/or willfully
2 contacting Plaintiff and on Plaintiff’s cellular telephone in violation of the
3 Telephone Consumer Protection Act, *47. U.S.C. § 227 et seq.* (“TCPA”), thereby
4 invading Plaintiff’s privacy.

5 **JURISDICTION & VENUE**

6 2. Jurisdiction is proper as Plaintiff seeks redress under a federal statute,
7 thus this Court has jurisdiction as this matter involves questions of federal law.

8 3. Venue is proper in the United States District Court for the Central
9 District of California pursuant to *18 U.S.C. 1391(b)* and *18 U.S.C. § 1441(a)*
10 because Defendant does business within the state of California and the Central
11 District of California and Plaintiff resides within this district.

12 **PARTIES**

13 4. Plaintiff, KARLA URIBE (“Plaintiff”), is a natural person residing in
14 Los Angeles County, California and is a “person” as defined by *47 U.S.C. § 153*
15 (*10*).

16 5. Defendant, FREEWAY INSURANCE SERVICES, INC.
17 (“Defendant”), is a corporation specializing in furnishing consumers with
18 automobile insurance policies with its state of incorporation and its corporate
19 headquarters in the State of California and is a “person” as defined by *47 U.S.C. §*
20 *153 (10)*.

21 **FACTUAL ALLEGATIONS**

22 6. In or around November of 2014, Plaintiff had purchased a new
23 automobile and as a result began seeking quotes from insurance companies,
24 including Defendant, for potential insurance coverage options.

25 7. As a result of Plaintiff requesting a quote, Defendant began to place
26 repeated daily automated calls to Plaintiff, often two more calls in a single day.
27 Defendant placed these automated calls to Plaintiff from the following, though not
28 exclusively, telephone numbers: (760) 477-1300; (858) 522-7007; (619) 299-4900;

1 (323) 845-4111; and (760) 504-0355.
2

3 8. As an illustrative example, Defendant placed calls on the following
4 days/times: November 24, 2014 at 11:39am, November 25, 2014 at 9:46am and
5 10:04am, November 26, 2014 at 10:02am, 11:04am and 11:25am.

6 9. After the first few calls, Plaintiff had obtained auto insurance from
7 another provider and as such, answered one of Defendant's many calls to advise
8 Defendant of same. Plaintiff advised Defendant that she was no longer interested
9 in Defendant's services and requested that Defendant cease placing any further
10 calls to her.

11 10. Notwithstanding, Defendant continued to place its automated sales
12 calls to Plaintiff's cellular telephone ending in 5187.

13 11. In fact, Plaintiff spoke with and advised Defendant on approximately
14 five (5) to six (6) separate occasions demanding the calls to cease, to no avail as
15 Defendant nonetheless continued with its daily incessant automated sales calls to
16 her cellular telephone.

17 12. Due to Defendant's refusal to stop placing its automated sales calls to
18 her cellular telephone, Plaintiff sent Defendant a written correspondence
19 demanding that Defendant cease placing its calls to her. Said correspondence was
20 received by Defendant on December 4, 2014 at approximately 1:12pm.

21 13. Yet despite this, Defendant continued to place its automated sales calls
22 to Plaintiff's cellular telephone on at least the following dates: January 12, 2015
23 and again on January 13, 2015.

24 14. Defendant used an "automatic telephone dialing system", as defined
25 by 47 U.S.C. § 227(a)(1) to place its calls to Plaintiff seeking to solicit Plaintiff's
26 business.

27 15. Defendant's calls constituted calls that was not for emergency
28 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

16. Defendant's calls were placed to a telephone number assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to *47 U.S.C. § 227(b)(1)*.

17. Plaintiff has made at least six (6) to seven (7) attempts, both verbal and written, to advise Defendant to cease placing its automated sales calls to Plaintiff's cellular telephone. Accordingly, Defendant did not have Plaintiff's "prior express consent" to receive calls using an automatic telephone dialing system on his cellular telephone pursuant to *47 U.S.C. § 227(b)(1)(A)*.

CLASS ALLEGATIONS

18. Plaintiff brings this action on behalf of herself and all others similarly situated, as a member of the proposed class (hereafter "The Class") defined as follows:

All persons within the United States who received any telephone calls from Defendant or Defendant's agent/s and/or employee/s to said person's cellular telephone made through the use of any automatic telephone dialing system within the four years prior to the filing of this Complaint

19. Plaintiff represents, and is a member of, The Class, consisting of All persons within the United States who received any telephone calls from Defendant or Defendant's agent/s and/or employee/s to said person's cellular telephone made through the use of any automatic telephone dialing system within the four years prior to the filing of this Complaint.

20. Defendant, its employees and agents are excluded from The Class. Plaintiff does not know the number of members in The Class, but believes the Class members number in the hundreds, if not more. Thus, this matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

21. The Class is so numerous that the individual joinder of all of its members is impractical. While the exact number and identities of The Class members are unknown to Plaintiff at this time and can only be ascertained through

1 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
2 The Class includes hundreds of members. Plaintiff alleges that The Class members
3 may be ascertained by the records maintained by Defendant.

4 22. Plaintiff and members of The Class were harmed by the acts of
5 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
6 and Class members via their cellular telephones thereby causing Plaintiff and Class
7 members to incur certain charges or reduced telephone time for which Plaintiff and
8 Class members had previously paid by having to retrieve or administer messages
9 left by Defendant during those illegal calls, and invading the privacy of said
10 Plaintiff and Class members.

11 23. Common questions of fact and law exist as to all members of The
12 Class which predominate over any questions affecting only individual members of
13 The Class. These common legal and factual questions, which do not vary between
14 Class members, and which may be determined without reference to the individual
15 circumstances of any Class members, include, but are not limited to, the following:

- 16 a. Whether, within the four years prior to the filing of this
17 Complaint, Defendant made any telephone call (other than a
18 call made for emergency purposes or made with the prior
19 express consent of the called party) to a Class member using
20 any automatic telephone dialing system to any telephone
21 number assigned to a cellular telephone service;
- 22 b. Whether Plaintiff and the Class members were damaged
23 thereby, and the extent of damages for such violation; and
- 24 c. Whether Defendant should be enjoined from engaging in such
25 conduct in the future.

26 24. As a person that received calls from Defendant using an automatic
27 telephone dialing system, without Plaintiff's prior express consent, Plaintiff is
28 asserting claims that are typical of The Class.

25. Plaintiff will fairly and adequately protect the interests of the members of The Class. Plaintiff has retained attorneys experienced in the prosecution of class actions.

26. A class action is superior to other available methods of fair and efficient adjudication of this controversy, since individual litigation of the claims of all Class members is impracticable. Even if every Class member could afford individual litigation, the court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous issues would proceed. Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

27. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Class members not parties to such adjudications or that would substantially impair or impede the ability of such non-party Class members to protect their interests.

28. Defendant has acted or refused to act in respects generally applicable to The Class, thereby making appropriate final and injunctive relief with regard to the members of the California Class as a whole.

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

29. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-28.

30. The foregoing acts and omissions of Defendant constitute numerous

and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

31. As a result of Defendant's negligent violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

32. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

33. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-32.

34. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

35. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

36. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*.
 - Injunctive relief.
 - Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection

Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
 - Injunctive relief.
 - Any and all other relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff demands a trial by jury in this action.

Date: February 4, 2015

MARTIN & BONTRAGER, APC

By: /s/ Nicholas J. Bontrager
Nicholas J. Bontrager
Attorneys for Plaintiff